

438-015-0125

**Bifurcation of Attorney Fee Award (Board Review)**

**(1) The determination of the Board's reasonable assessed attorney fee award under ORS 656.382(2), ORS 656.383, or ORS 656.386(1) shall be bifurcated from the underlying claim if:**

**(a) A request for Board review of an Administrative Law Judge's order has been filed;**

**(b) Within 14 days of the expiration of the briefing schedule, the claimant files a request for bifurcation of the Board's attorney fee award as described in section (1); and**

**(c) The Board reaches a decision that entitles the claimant's counsel to a reasonable assessed attorney fee award under one or more of the statutes described in section (1).**

**(2) If the requirements in section (1) have been satisfied, the Board's order will award a reasonable assessed attorney fee award without specifying the amount thereof. The Board's order will also identify a separate WCB Case Number that pertains to the "bifurcated" attorney fee award.**

**(3) Within 60 days after the Board order under section (2) becomes final, the claimant's counsel may file a written statement specifying a proposed amount for the reasonable attorney fee award, including a description of how the factors set forth in OAR 438-015-0010(4) support the proposed fee.**

**(4) Upon the filing of the claimant's counsel's statement under section (3), the Board will acknowledge the statement. The insurer's/self-insured employer's response, if any, to the claimant's counsel's statement shall be filed within 21 days from the date of mailing of the Board's acknowledgment letter. The claimant's reply, if any, shall be filed within 14 days from the date of filing of the insurer's/self-insured employer's response. After conducting an expeditious review, the Board will determine the amount for the reasonable assessed attorney fee award in a final, appealable order.**

**(5) If the parties reach agreement regarding the amount of a reasonable assessed attorney fee award, a stipulation (which pertains to the assigned WCB Case Number described in section (2)) may be filed with the Board. The Board's approval of the parties' stipulation will be contained in a final order, which will specify that the award shall be paid within 14 days of the order.**

Statutory/Other Authority: ORS 656.307, ORS 656.388(4), (5) & ORS 656.726

Statutes/Other Implemented: ORS 656.308, ORS 656.382, ORS 656.383 & ORS 656.386